

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 98-4778

BOOKER TELFAIR NEWSOME,
Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
James C. Cacheris, Senior District Judge.
(CR-98-185)

Submitted: March 23, 1999

Decided: April 6, 1999

Before HAMILTON, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Bravitt Cola Manley, Jr., Washington, D.C., for Appellant. Helen F.
Fahey, United States Attorney, Rachel Harmon, Special Assistant
United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Booker Telfair Newsome appeals from his conviction following a jury trial, of being a prisoner in possession of a shank, in violation of 18 U.S.C. § 13 (West 1994 & Supp. 1998), assimilating Va. Code Ann. § 53.1-203(4) (Michie 1998). We affirm.

The Government's evidence showed that Newsome was involved in an altercation with another inmate, James Erik Gartrell. Both Newsome and Gartrell possessed shanks, and each attempted to stab the other. Though the correctional officials acted swiftly and effectively to stop the fight, Newsome stabbed Gartrell multiple times in the torso and head. The defense attempted to show during cross-examination of government witnesses that Gartrell was the aggressor and that Newsome's possession of the shank was justified in self-defense. The court denied Newsome's motion for acquittal under Fed. R. Crim. P. 29(a). Newsome timely appealed.

Even if Newsome may assert self-defense as a defense to the charge of possession of a shank and met his burden of production as to the defense, the record discloses that the evidence was sufficient to allow a rational jury to find the non-existence of self-defense beyond a reasonable doubt. See United States v. Childress, 26 F.3d 498, 501 (4th Cir. 1994); United States v. Alvarez, 755 F.2d 830, 842 n.12 (11th Cir. 1985). Accordingly, we affirm Newsome's conviction. We dispense with oral argument because the facts and legal contentions are adequately set forth in the materials before the court and argument would not aid the decisional process.

AFFIRMED